

Official Amendment

Serial No. – 10/625,886

Docket No. – UVD 0299 IA / UD 268

REMARKS

Claims 1-8, 10-11, 35-55, 137, and 140-163 were pending in the present application. Claims 1, and 137 have been amended. Claims 39, 40, 48-50, are withdrawn from consideration. As a result of this amendment, claims 1-8, 10-11, 35-38, 41-47, 51-55, 137, and 140-163 are currently under examination. Reexamination and reconsideration are requested in light of the accompanying amendments and remarks.

Applicants gratefully acknowledge the allowance of claims 140-163.

The rejection of claims 1-7, 10-11, 35-38, 41-42, 44-47, 51-55, and 137 under 33 U.S.C. § 103(a) as being unpatentable over PCT publication WO 98/48075 (treated as equivalent to U.S. Patent No. 6,200,672 to Tadokoro) in view of U.S. Application 2003/0185990 (Bittner) has been overcome.

Tadokoro teaches “a surface treated metal sheet which is coated with a layer comprising as main components, *a complex and/or salt between a rare earth metal element and an organic compound* having in the molecule one or more functional groups selected from among -O-, =O, -OH, -COOH, -NH₂, -NH, =N-, -SH, -SO₃H and phosphoric groups, and *a matrix which physically holds the above and has adhesive power for metal sheets*, as well as a metal surface treatment solution used therefore.” Abstract.

According to the examiner, “Tadokoro teaches an aqueous metal surface treatment fluid comprising a rare earth element such as tetravalent cerium (col. 5 lines 6-9) and oxyacid anions such as phosphate, tungstate, vanadate anions, wherein the rare earth metal elements and the oxyacid anions form oxyacid compounds (col. 9 lines 28-33).” However, col. 5, lines 6-9, and col. 9, lines 28-33 refer to different components of the coating. One component is a *complex and/or salt* between a rare earth element and an organic compound having certain functional groups (rare earth metal complex). The second component is a *matrix* capable of holding the rare earth metal complex and having adhesive power for metal sheets. See Abstract, col. 3, lines 12-20 and 61-67, col. 13, lines 43-55, and Tables 1 and 2.

Official Amendment

Serial No. – 10/625,886

Docket No. – UVD 0299 IA / UD 268

The discussion at col. 5, lines 6-9 refers to the first component, the rare earth metal complex. See col. 4, line 52 to col. 5, line 35, and col. 10, line 64 to col. 11, line 48. The discussion at col. 9, lines 28-33 refers to the second component, the matrix. See col. 7, lines 46-60, col. 9, lines 26-43, col. 10, lines 4-8, col. 12, line 43 to col. 13, line 42.

The examiner also stated that “Tadokoro further teaches a rare earth metal complex comprising rare earth elements such as tetravalent cerium and an inorganic compounds [sic] such as phosphates, nitrates and sulfates (col. 5 lines 27-31).” However, col. 5, lines 27-31 does not refer to a complex between a rare earth metal and an inorganic compound. As explained at col. 5, lines 24-27, the rare earth metal complex (i.e., the complex and/or salt between a rare earth element and an *organic* compound) can have an inorganic compound as a ligand. “In the case of a complex, there is no problem if it *also contains an inorganic compound as a ligand in addition to the organic compound.*” Tadokoro’s complex or salt is between a rare earth element and an *organic* compound. See Abstract; col. 2, lines 38-46, 52-61; col. 2, lines 12-20, 33-39, and 61-67; col. 4, lines 13-20; col. 5, lines 10-31; col. 6, line 40 to col. 7, line 13.

Although Tadokoro mentions the use of tetravalent cerium, it does not teach that “at least one rare earth element is in the tetravalent oxidation state in the rare earth/valence stabilizer complex in the solid corrosion-inhibiting seal,” as in claims 1, and 137. The fact that tetravalent cerium is present in the starting solution, as shown in the Examples and Tables 1 and 2, does not mean it is present in the complex in the pigment composition. Tetravalent cerium compounds in solution can easily form trivalent compounds in formed films or react to form other compounds. The anticorrosion performance of coatings that contain complexes of trivalent rare earths and of tetravalent rare earths is notably different. With complexes containing trivalent rare earths, the formed coating is simply a barrier film which prevents corrosive species from reaching the metal.

Tadokoro teaches that the valency of the rare earth metals does not matter.

Rare earth metal elements have anti-corrosion functions, although the mechanism thereof is not clear. *Any rare earth metal element* may be used in the rare earth metal

Official Amendment

Serial No. – 10/625,886

Docket No. – UVD 0299 IA / UD 268

complex (i.e. the complex and/or salt of the organic compound and rare earth element) used for the invention, and *there are no particular restrictions on the valency of the rare earth metal at the time the rare earth metal complex is formed*. Lanthanoids and/or yttrium are preferred from the standpoint of ease of handling, while from an economical standpoint, lanthanum or cerium is preferred, and tetravalent cerium which also has oxidizing power is even more preferred.

Col. 4, line 65 to col. 5, line 9.

Furthermore, the action of the organic species in Tadokoro is different from that of the claimed invention.

Since such an organic compound adheres to metal surfaces, it can effectively supply the rare earth metal to the metal sheet surface and, even after dissociating from the rare earth metal element in the layer when corrosion proceeds, *it forms a complex with the dissolved metal component of the metal sheet and precipitates*, thus inhibiting further ionization of the metal sheet.

Col. 6, lines 51-59. Thus, the organic species in Tadokoro are introduced such that *they bind with the metal ions supplied by the corroding metal itself*. In contrast, the valence stabilizers of the present invention are introduced to form stable tetravalent rare earth species in the *formed coating*.

Moreover, Tadokoro is a non-enabling reference which does not anticipate the claimed invention. “[A] § 102(b) reference must sufficiently describe the claimed invention to have placed the public in possession of it. . . . [E]ven if the claimed invention is disclosed in a printed publication, that disclosure will not suffice as prior art if it was not enabling. . . .” *Paperless Accounting, Inc. v. Bay Area Rapid Transit System*, 804 F.2d 659, 665, 231 USPQ 649, 653 (Fed. Cir. 1986); See also, *Akzo N.V. v. U.S.I.T.C.*, 808 F.2d 1471, 1479, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986). Although patents are presumed to be enabling, the presumption can be rebutted. MPEP 2121.02.

Official Amendment

Serial No. – 10/625,886

Docket No. – UVD 0299 IA / UD 268

Applicants repeated Tadokoro's experiments with catechol, dextrose (as a close surrogate for γ -cyclodextrin), and 2-hydroxynicotinic acid which were said in Tadokoro to produce tetravalent rare earth metal complexes, as well as with salicylic acid which is slightly less soluble than 2-hydroxynicotinic acid. Following Tadokoro's process, catechol yielded a precipitate which did not contain either tetravalent cerium or trivalent cerium. 2-hydroxynicotinic acid and salicylic acid produced precipitates containing cerium III. Dextrose did not produce any precipitate, indicating that this complex is highly water soluble. As a result, it does not meet the solubility requirements of the claims and is unsuitable for use in a pigment composition. None of the reactions produced a cerium IV complex. See Paragraphs 3-10 of the Declaration of Jeffrey A. Sturgill.

Thus, Tadokoro is a non-enabling reference and it would take undue experimentation to produce a tetravalent cerium complex using Tadokoro's disclosure. Therefore, Tadokoro does not anticipate the claimed invention.

With respect to claims 1 and 10-11, the examiner stated that "the tetravalent cerium of Tadokoro in view of Bittner reads on the claimed rare earth element and the phosphate, tungstate, vanadate, sulfate and nitrate of Tadokoro in view of Bittner read on the claimed inorganic valence stabilizer. The oxyacid compound or the rare earth metal complex of Tadokoro in view of Bittner reads on the claimed rare earth/valence stabilizer complex." As discussed above, Tadokoro's teaches a complex or salt between a rare earth metal and an *organic* compound. Tadokoro does not teach a "a rare earth element and an inorganic valence stabilizer combined to form a rare earth/valence stabilizer complex," as claimed.

Bittner is cited as teaching a method for coating a metal surface with a paint-like coating comprising at least one rare earth element compound (paragraphs [0110], [0116]), and that the metal substrate can be pretreated with phosphate to provide temporary protection of the metal surface (paragraph [0007]). However, Bittner does not remedy the deficiencies of Tadokoro.

With respect to claim 7, the examiner stated that "since Tadokoro in view of Bittner teach a rare earth metal complex, the claimed central cavity containing cerium is inherently present in

Official Amendment

Serial No. – 10/625,886

Docket No. – UVD 0299 IA / UD 268

the rare earth metal complex. In addition, since specifics of the additional ions are not recited in the claim, any ions, such as impurities in the cavity of the rare earth metal complex, can read on the claimed additional ion.”

As discussed on p. 170, lines 1-19, in the case of the heteropolymetallates, there is a central cavity which can contain an ion in addition to cerium. Examples include silicomolybdates, phosphomolybdates, silicotungstates, and phosphotungstates. In these complexes, the central cavity contains a Si^{+4} or P^{+5} ion in addition to the cerium ion. The molybdenum or tungsten is not in the central cavity; rather, it forms the central cavity. Thus, in a cerium/vanadate complex as described in Tadokoro, the vanadium ion is not in the central cavity.

As to the statement that impurities in the cavity of the rare earth complex can read on the additional ion, the Office Action provides no support for the assertion that impurities in the rare earth metal complex would or could be located in the central cavity. Applicants respectfully request that the examiner provide evidence to support this assertion.

With respect to claims 35-38, the examiner stated that “Tadokoro teaches the presence of cerium ions which read on the claimed cationic solubility control agent. Tadokoro further teaches the presence of calcium, zinc, lanthanum, hydrogen, zirconium, and titanium ions (col. 10, lines 9-18) which also read on the claimed cationic solubility control agent.”

Tadokoro does not teach that “the rare earth/valence stabilizer complex further comprises a solubility control agent,” as claimed. As discussed at p. 340, line 29 to p. 341, line 24, one of the roles of the valence stabilizer is to allow for formation of a tetravalent cerium, praseodymium, or terbium complex that has a specific solubility range. The anions or cations present in the coating solution may be sufficient to form a Ce^{+4} , Pr^{+4} , or Tb^{+4} -containing compound within the conversion coating that exhibits the desired solubility characteristics. Additional solubility control may be desirable to optimize the performance of the tetravalent cerium-, praseodymium-, or terbium-valence stabilizer complex. The initial formation of the conversion coating may produce Ce^{+4} , Pr^{+4} , or Tb^{+4} compounds with solubilities greater than optimal. Additional solubility control agents applied to a workpiece can enhance the Ce^{+4} , Pr^{+4} ,

Official Amendment

Serial No. – 10/625,886

Docket No. – UVD 0299 IA / UD 268

or Tb⁺⁴ content of the coating by forming more insoluble compounds in place. Additional solubility control agents are typically applied as a second solution.

Tadokoro teaches that the layer and the treatment solution can include some additional materials.

There may also be added to the layer and treatment solution of the invention phosphoric acid or polyphosphoric acid as *passivation layer-forming aids*, or calcium hydroxide, calcium carbonate, calcium oxide, zinc phosphate, potassium phosphate, calcium phosphate, lanthanum phosphate, lanthanum hydrogen phosphate, cerium phosphate, cerium hydrogen phosphate, calcium silicate, zirconium silicate, aluminum phosphate, zirconium phosphate, TiO₂, SiO₂, Al₂O₃, La₂O₃, CeO₂, etc. as *additional additives*.

Col. 10, lines 10-18. Tadokoro teaches the use of certain compounds as passivation layer-forming aids, and others as additional additives in its layer. Tadokoro's compounds are not solubility control agents. They do not alter the solubility of the cerium-, praseodymium-, or terbium-valence stabilizer complex. They are simply additional components in the layer.

According to the examiner, "applicant's argument [is not] persuasive since Tadokoro teaches the claimed cerium, calcium, zinc, lanthanum, hydrogen, zirconium and titanium ions present in its coating composition Therefore, their function as a solubility control agent is inherently present in these cations." However, the additional compounds included in Tadokoro's composition do not form part of the rare earth/valence stabilizer complex, as claimed.

Therefore, claims 1-7, 10-11, 35-38, 41-42, 44-47, 51-55, and 137 would not have been obvious to one of ordinary skill in the art at the time the invention was made over Tadokoro in view of Bittner.

The rejection of claim 43 under 33 U.S.C. § 103(a) as being unpatentable over Tadokoro in view of Bittner and further in view of Gulley (U.S. Patent No. 5,330,588) has been overcome. Gulley is cited as teaching "the use of silver in a chemisorption layer on a metal part as a lubricant in order to averts [sic] high frictional forces." However, Gulley does not remedy the

Official Amendment

Serial No. – 10/625,886

Docket No. – UVD 0299 IA / UD 268

deficiencies of Tadokoro combined with Bittner. Therefore, claim 43 would not have been obvious to one of skill in the art at the time the invention was made over Tadokoro in view of Bittner and further in view of Gulley.

The rejection of claims 1-7, 9-11 [sic 10-11], 35-38, 41-42, 44-47, and 137 under 33 U.S.C. § 103(a) [sic] as being unpatentable over DePue (U.S. Patent No. 5,322,560) in view of Bittner is respectfully traversed. DePue teaches a corrosion inhibitor compound for treating aluminum flake pigment. The corrosion inhibitor compound is the reaction product of a water-soluble metal salt including metals selected from the group consisting of yttrium and rare earth metals and an anionic metal salt including transition metal oxo-complexes and soluble salts of silicon and mixtures thereof. Abstract.

According to the examiner, DePue teaches that the “corrosion inhibitor compound comprises a rare earth metal such as tetravalent cerium (col. 2 lines 55-60), a silicon salt and a metal oxo-complexes [sic] of Ti, V, Cr, Zr, Nb, Mo, Hf, Ta, and W (col. 2 lines 27-36, col. 3 lines 17-22).”

The corrosion inhibitor of DePue is described at col. 2, lines 27-36, and col. 3, lines 17-22. However, the compounds described at col. 2, lines 55-59 are different compounds (water-soluble) which can be used as primary corrosion inhibitors in combination with DePue’s claimed corrosion inhibitor (slightly soluble) which would be a secondary corrosion inhibitor.

The corrosion inhibitors of the present invention are also useful when *used in combination with water-soluble metal salts of yttrium and the rare earth metals. Particularly useful salts include trivalent cerium, yttrium and lanthanum salts and tetravalent cerium salts.*

These salts are discussed further at col. 4, lines 34-55.

The slightly soluble corrosion inhibitor of the present invention is also useful in aqueous coating compositions containing aluminum flake pigment. The corrosion inhibitor is particularly effective in coating compositions when used as a secondary corrosion inhibitor in combination with *a primary corrosion inhibitor which is a water-*

Official Amendment

Serial No. – 10/625,886

Docket No. – UVD 0299 IA / UD 268

soluble salt of trivalent or tetravalent salt of cerium, yttrium or lanthanum. Water-soluble salts useful as a primary corrosion inhibitor compound for treating the aluminum pigment include cerium sulfate, cerium triacetate, cerium isopropoxide, ammonium cerium nitrate, yttrium triacetate, lanthanum triacetate and cerium nitrate.

When used in combination in a coating composition, *the water soluble metal salt used as the primary corrosion inhibitor* is present in an amount of between 0.01% and 5.0% by weight based on total pigment weight and *the slightly soluble salt used as the secondary corrosion inhibitor* is used in an amount between 0.01% and 5.0% by weight based on the combined weight of the corrosion inhibitor and pigment.

Thus, the only *tetravalent* rare earth compounds described in DePue are *salts*, not *rare earth/valence stabilizer complexes*, as claimed. The salts are highly soluble in water, and fall above the solubility parameters specified in the claims. In fact, several of the salts mentioned are identified in the application as being suitable cerium sources: cerium sulfate, cerium triacetate, ammonium cerium nitrate and cerium nitrate. See p. 349, line 21 to p. 350, line 8, and Table 4.

The Office Action stated that “Applicant further argues that DePue teaches a soluble rare earth metal salt, not a rare earth metal complex as claimed.” However, this misstates Applicants’ argument. DePue’s claimed corrosion inhibitor is a *slightly soluble compound* which is the reaction product of a water soluble compound of yttrium or a rare earth metal and an anionic metal complex including soluble salts of transition metal oxo-complexes, soluble silicates, and mixtures thereof. DePue teaches that this *slightly soluble corrosion inhibitor* can be used as a secondary corrosion inhibitor in combination with a primary corrosion inhibitor which is a *water-soluble metal salt* of yttrium and rare earth metals. Col. 2, lines 8-36, and 56-60; and col. 4, lines 32-44, and col. 4, line 45 to col. 5, line 9. DePue’s *slightly soluble corrosion inhibitor* does not include “at least one rare earth element [] in the tetravalent oxidation state in the rare earth/valence stabilizer complex in the solid corrosion-inhibiting seal,” as claimed. The only discussion of a *tetravalent* cerium compound is in connection with the *water-soluble metal salts* of yttrium and the rare earth metals, as discussed at col. 2, lines 56-60; and col. 4, lines 32-44.

Official Amendment

Serial No. – 10/625,886

Docket No. – UVD 0299 IA / UD 268

The Office Action also stated that “applicant’s argument [is not] persuasive since DePue teaches a slightly water soluble corrosion inhibitor compound which is a product of a rare earth metal salt, a metal oxo-complex and a silicon salt. The rejection ground is based on this slightly water soluble corrosion inhibitor compound in an aqueous solution as taught by DePue, which read [sic] on the claimed rare earth/valence stabilizer complex.” However, DePue’s *slightly soluble corrosion inhibitor* does not contain *tetravalent* rare earth metals. Nowhere in the description of the *slightly soluble corrosion inhibitor* is there any mention of a product in which the rare earth is in the *tetravalent* state or of any process which would be required to make such a compound. Quite the contrary, DePue teaches the use of trivalent cerium compounds in Examples 1 (cerous metavanadate), 2 (cerous silicate), 4 (cerous metavanadate), 7 (cerous molybdate and cerium triacetate (trivalent cerium)), and 8 (cerous tungstate). None of DePue’s examples involve the use of a tetravalent cerium complex. The only description of a compound with cerium in the *tetravalent state* is with respect to the *water-soluble salt*, not the *slightly soluble corrosion inhibitor* (col. 2, lines 56-60; and col. 4, line 34-39).

Moreover, Applicants repeated DePue’s experiments with cerium (III) nitrate, cerium (IV) ammonium nitrate, and cerium (III) sulfate with sodium molybdate, sodium tungstate, sodium metasilicate, and sodium metavanadate. In every case except for the use of sodium metavanadate, the process described in DePue produced compounds having trivalent cerium, not tetravalent cerium, as claimed. With respect to the product made using sodium metavanadate, it was not possible to determine whether the species was tetravalent cerium or vanadium +5 in the vanadate using the test that was run. See Paragraphs 11-19 of the Declaration of Jeffrey A. Sturgill. However, DePue itself teaches that the compound formed was trivalent cerium. See Example 1. Thus, Applicants’ experiments confirm DePue’s teaching that trivalent compounds are formed.

DePue’s corrosion inhibitor compounds do not contain tetravalent cerium. Aluminum flake pigment treated with the corrosion inhibitor compound is said to inhibit corrosion of the pigment particles in water-borne coating compositions. See col. 1, lines 54-66, and col. 2, lines

Official Amendment

Serial No. – 10/625,886

Docket No. – UVD 0299 IA / UD 268

8-12. The corrosion inhibitors are formed by reacting the water-soluble metal salt of yttrium, or rare earth metals with a transition metal oxo-complex or a silicate salt in aqueous solution. The resultant reaction product is then filtered and oven dried. See col. 3, lines 23-29. The aluminum flake pigment particles are treated with the corrosion inhibitor by forming a slurry of the aluminum pigment and a corrosion inhibitor and water. The pigment remains in mixture with the solution for 0.5 to 4 hrs to form the protective coating of the corrosion inhibitor on the aluminum flake pigment. The contact time must be adequate for formation of a rare earth metal or transition metal oxide coating on the aluminum flake pigment. See col. 2, lines 37-45, and col. 3, lines 35-62, and Examples. Because there is no tetravalent cerium in the rare earth metal oxocompound, and there is nothing in the solution/slurry which could oxidize the cerium, there is no tetravalent cerium in the oxide coating.

Bittner is cited as teaching a method for coating a metal surface with a paint-like coating comprising at least one rare earth element compound (paragraphs [0110], [0116]), and that the metal substrate can be pretreated with phosphate to provide temporary protection of the metal surface (paragraph [0007]). However, Bittner does not remedy the deficiencies of DePue.

With respect to claim 7, the examiner stated that “since DePue in view of Bittner teaches the claimed rare earth/valence stabilizer complex, it also inherently teaches the central cavity containing cerium as recited in instant claim 7. In addition, since specifics of the additional ions are not recited in the claim, any ions, such as impurities in the cavity of the rare earth metal complex, can read on the claimed additional ion.”

As discussed on p. 170, lines 1-19, in the case of the heteropolymetallates, there is a central cavity which can contain an ion in addition to cerium. Examples include silicomolybdates, phosphomolybdates, silicotungstates, and phosphotungstates. In these complexes, the central cavity contains a Si^{+4} or P^{+5} ion in addition to the cerium ion. The molybdenum or tungsten is not in the central cavity; rather, it forms the central cavity.

As to the statement that impurities in the cavity of the rare earth complex can read on the additional ion, the Office Action provides no support for the assertion that impurities in the rare

Official Amendment

Serial No. – 10/625,886

Docket No. – UVD 0299 IA / UD 268

earth metal complex would or could be located in the central cavity. Applicants respectfully request that the examiner provide support for this assertion.

With respect to claims 35-38, DePue does not teach the use of solubility control agents as claimed. As discussed above, one of the roles of the valence stabilizer is to allow for formation of a tetravalent cerium, praseodymium, or terbium complex that has a specific solubility range. The anions or cations present in the coating solution may be sufficient to form a Ce^{+4} , Pr^{+4} , or Tb^{+4} -containing compound within the conversion coating that exhibits the desired solubility characteristics. Additional solubility control may be desirable to optimize the performance of the tetravalent cerium-, praseodymium-, or terbium-valence stabilizer complex. The initial formation of the conversion coating may produce Ce^{+4} , Pr^{+4} , or Tb^{+4} compounds with solubilities greater than optimal. Additional solubility control agents applied to a workpiece can enhance the Ce^{+4} , Pr^{+4} , or Tb^{+4} content of the coating by forming more insoluble compounds in place. Additional solubility control agents are typically applied as a second solution.

The examiner stated that “DePue further teaches the presence of Na ions from the metal oxo-complexes (col. 3 lines 17-22), which reads on the cationic solubility control agent as claimed. In addition, the Ce, Ti, Zr, V, Cr, W, Mo, Nb, Hf, Ta as taught by DePue (col. 2, lines 27-36, col. 3, lines 17-22) in view of Bittner also read on the claimed cationic solubility control agent.”

Col. 2, lines 27-36 describes particularly useful corrosion inhibitors as including the reaction product of water-soluble compounds including yttrium, lanthanum, or rare earth metals of the lanthanum series and an anionic metal complex including a soluble salt of silicon or of a transition metal oxo-complex where the transition metal is selected from titanium, vanadium, chromium, zirconium, niobium, molybdenum, hafnium, tantalum, and tungsten transition metals as transition metals for transition metal oxo-complexes. Col. 3, lines 17-22 lists preferred water-soluble salts of transition metal oxo-complexes. The claimed corrosion inhibitor is the reaction product of these two compounds. As a result, the Ti, Zr, V, Cr, W, Mo, Nb, Hf, Ta form the corrosion inhibitor compound and would not be available for use as solubility control agents.

Official Amendment

Serial No. – 10/625,886

Docket No. – UVD 0299 IA / UD 268

Applicants also note the recitation of cerium nitrate as the preferred water-soluble metal salt for reaction with the anionic metal salt. Thus, the cerium reacts with the metal salt and would not be available for use as a solubility control agent.

Therefore, claims 1-7, 9-11 [sic 10-11], 35-38, 41-42, 44-47, and 137 would not have been obvious to one of ordinary skill in the art over DePue in view of Bittner.

The rejection of claim 43 under 33 U.S.C. § 103(a) as being unpatentable over DePue in view of Bittner and further in view of Gulley (U.S. Patent No. 5,330,588) is respectfully traversed. Gulley is cited as teaching “the use of silver in a chemisorption layer on a metal part as a lubricant in order to averts [sic] high frictional forces.” However, Gulley does not remedy the deficiencies of DePue combined with Bittner. Therefore, claim 43 would not have been obvious to one of skill in the art at the time the invention was made over DePue in view of Bittner and further in view of Gulley.

Applicants gratefully acknowledge the examiner’s statement that claim 8 would be allowable if rewritten in independent form. Claim 8 was previously rewritten in independent form as claim 140.

Official Amendment

Serial No. – 10/625,886

Docket No. – UVD 0299 IA / UD 268

CONCLUSION

Applicants respectfully submit that, in view of the above amendment and remarks, the application is now in condition for allowance. Applicants respectfully request that claims 1-8, 10-11, 35-38, 41-47, 51-55, 137, and 140-164 be passed to allowance.

If the Examiner has any questions or comments regarding the present application, he is invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,
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